SJS 44 (Rev. 12/07, NJ 5/08)

2:14-cv-05566-RB Document 1 Filed 09/29/14 CIVIL COVER SHEET

14 Page 1 051266

The JS 44 civil cover sheet and the interpretation of the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRICTIONS ON THE REVERSE OF THE FORM.)

the civil docket sheet. (SEE IN	STRUCTIONS ON THE REVERSE OF THE FORM.)			
I. (a) PLAINTIFFS		DEFENDANTS		
ALFRED FUNDERBUR	K	CONTRACT CA	LLERS, INC.	
(b) County of Residence	of First Listed Plaintiff Philadelphia	County of Residence of	First Listed Defendant	
(c) Attorney's (Firm Na	me, Address, Telephone Number and Email Add	lress) NOTE: IN LAND	CONDEMNATION CASES, USE	THE LOCATION OF THE
Craig Thor Kimmel, Es Kimmel & Silverman,		LAND IN Attorneys (If Known)	NVOLVED.	
30 E. Butler Pike Ambler, PA 19002				
(215) 540-8888		.		
II. BASIS OF JURISI	OLCTION (Place an "X" in One Box Only)	III. CITIZENSHIP OF PI (For Diversity Cases Only)	RINCIPAL PARTIES(P	Place an "X" in One Box for Plaintiff and One Box for Defendant)
☐ 1 U.S. Government Plaintiff	Federal Question (U.S. Government Not a Party)	PT Citizen of This State		PTF DEF
2 U.S. Government Defendant	4 Diversity (Indicate Citizenship of Parties in Item III)	Citizen of Another State	2	
		Citizen or Subject of a Greign Country	3 🗖 3 Foreign Nation	0 6 0 6
IV. NATURE OF SUI	T (Place an "X" in One Box Only) TORTS	FORFEITHRE/PENALTY	BANKRUPTCY	OTHER STATUTES
110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Recovery of Overpayment & Enforcement of Judgment 151 Medicare Act 152 Recovery of Defaulted Student Loans (Excl. Veterans) 153 Recovery of Overpayment of Veteran's Benefits 160 Stockholders' Suits 190 Other Contract 195 Contract Product Liability 196 Franchise 210 Land Condemnation 220 Foreclosure 230 Rent Lease & Ejectment 240 Torts to Land 245 Tort Product Liability 290 All Other Real Property	PERSONAL INJURY 310 Airplane 315 Airplane Product Liability 320 Assault, Libel & Slander 330 Federal Employers' Liability 340 Marine 345 Marine Product Liability 350 Motor Vehicle Product Liability 355 Motor Vehicle Product Liability 385 Property Damag PRSONAL INJUR Med. Malpracti Med. Malpracti 365 Personal Injury Product Liability Product Liability 365 Personal Injury Product Liability PRSONAL PROPEI 370 Other Fraud 371 Truth in Lendin Property Damag Property Damag	RY	□ 422 Appeal 28 USC 158 □ 423 Withdrawal 28 USC 157 □ PROPERTY RIGHTS □ 820 Copyrights □ 830 Patent □ 840 Trademark □ 861 HIA (1395ff) □ 862 Black Lung (923) □ 863 DIWC/DIWW (405(g)) □ 864 SSID Title XVI □ 865 RSI (405(g)) □ FEDERAL TAX SUITS □ 870 Taxes (U.S. Plaintiff or Defendant) □ 871 IRS—Third Party 26 USC 7609	□ 400 State Reapportionment □ 410 Antitrust □ 430 Banks and Banking □ 450 Commerce □ 460 Deportation □ 470 Racketeer Influenced and □ Corrupt Organizations ■ 480 Consumer Credit □ 490 Cable/Sat TV □ 10 Selective Service ■ 850 Securities/Commodities/ Exchange □ 875 Customer Challenge □ 12 USC 3410 □ 890 Other Statutory Actions □ 891 Agricultural Acts □ 892 Economic Stabilization Act □ 893 Environmental Matters □ 894 Energy Allocation Act □ 895 Freedom of Information Act □ 900Appeal of Fee Determination Under Equal Access to Justice □ 950 Constitutionality of State Statutes
☐ 1 Original ☐ 2 F	e an "X" in One Box Only) Removed from	Reopened anoth	ferred from 6 Multidistric Litigation	
VI. CAUSE OF ACT	Cite the U.S. Civil Statute under which you 15 U.S.C. § 1692	are filing (Do not cite jurisdiction	al statutes unless diversity):	
VI. CAUSE OF ACT	Brief description of cause: Fair Debt Collection Practices	Act		\nearrow
VII. REQUESTED II COMPLAINT:	N	ON DEMAND \$	CHECK YES only JURY DEMAND:	if demanded in complaint: ✓ Yes □ No
VIII. RELATED CA	SE(S) (See instructions): JUDGE	1	DOCKET NUMBER	
Explanation:				
09/26/				SEP 2 9 2014
DATE	SIGNATURE	OF ATTORNEY OF RECORD		27

Attorney I.D.#

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of

assignment to appropriate calendar.	§	
Address of Plaintiff: 158 East Maryland Avenue, Philad	delphia, PA 19144	
Address of Defendant: 1058 Claussen Road, Suite 110,	Augusta, GA 30907	
Place of Accident, Incident or Transaction:		
	or Additional Space)	
Does this civil action involve a nongovernmental corporate party with any parent corporate	H- 1	ts stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.	1(a)) Yes□ No.	
Does this case involve multidistrict litigation possibilities?	Yes□ (No. ZZ)	
RELATED CASE, IF ANY:	D. Z	
Case Number: Judge	Date Terminated:	
Civil cases are deemed related when yes is answered to any of the following questions:		
1. Is this case related to property included in an earlier numbered suit pending or within or	-	
	Yes□ No⊠	
2. Does this case involve the same issue of fact or grow out of the same transaction as a praction in this court?	for suit pending or within one year previously terminated	
	Yes□ No⊠	
3. Does this case involve the validity or infringement of a patent already in suit or any early consists the string in this case of		
terminated action in this court?	Yes□ No⊠	
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil	rights case filed by the same individual?	
	Yes□ No⊠	

CIVIL: (Place ✓ in ONE CATEGORY ONLY)		
A. Federal Question Cases:	B. Diversity Jurisdiction Cases:	
1. □ Indemnity Contract, Marine Contract, and All Other Contracts	1. □ Insurance Contract and Other Cont	racts
2. □ FELA	2. Airplane Personal Injury	
3. □ Jones Act-Personal Injury	3. Assault, Defamation	
4. □ Antitrust	4. □ Marine Personal Injury	
5. □ Patent	5. Motor Vehicle Personal Injury	
6. □ Labor-Management Relations	6. □ Other Personal Injury (Please spec	ify)
7. □ Civil Rights	7. □ Products Liability	•
8. Habeas Corpus	8. Products Liability — Asbestos	
9. □ Securities Act(s) Cases	9. All other Diversity Cases	
10/ Social Security Review Cases	(Please specify)	
11. M All other Federal Question Cases	(i lease specify)	
(Flease specify) 15 U.S.C. § 1692		
()		
ARBITRATION CE	ERTIFICATION	
I, Craig Thor Kimmel , counsel of record do hereby	ate Category)	
□ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge		xceed the sum of
\$150,000.00 exclusive of interest and costs;		
□ Relief other than monetary damages is sought.		
DATE: 09/26/2014 Craig Thor Kimmel	57100	
Attomey-at-Law	Attorney I.D.#	
NOTE: A trial de novo will be a trial by jury only	if there has been compliance with F.R.C.P. 38.	P 2 9 2014
I certify that, to my knowledge, the within case is not related to any case now pendir	ng or within one year previously terminated action in this c	court
except as noted above.		
DATE: 09/26/2014 Craig Thor Kimmel	57100	
Attorney-at-Law	Attorney I.D.#	



ALFRED FUNDERBURK

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

	v.		:	A A	
CONTRACT		INC.		NO.	5566
In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.					
SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:					
(a) Habeas Corpus	- Cases brow	ught under 28 U	J.S.C. § 2241 through	gh § 2255.	()
(b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits.					
(c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (x)					
(d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos.					
commonly refe	rred to as co reverse side	mplex and that	all into tracks (a) that need special or inte or a detailed explana	nse management b	у ()
(f) Standard Management – Cases that do not fall into any one of the other tracks.					
09/26/2014 Date		Craig Thor Attorney-at		ALFRED FUNDI	ERBURK
215-540-8888	<u>, </u>	877-788-286		kimmel@cred:	itlaw.com
Telephone		FAX Numb	er	E-Mail Addre	ss
(Civ. 660) 10/02					

CIVIL ACTION

Hyo°

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UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FILED

SEP 2 9 2014

ALFRED FUNDERBURK,	MICHAFLE KUNZ AND
Plaintiff	5 5 6 6 Dep. Clerk
v.) Case No.:
CONTRACT CALLERS, INC.,) COMPLAINT AND DEMAND FOR) JURY TRIAL
Defendant)
	(Unlawful Debt Collection Practices)

COMPLAINT

ALFRED FUNDERBURK ("Plaintiff"), by his attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against CONTRACT CALLERS, INC. ("Defendant"):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA").

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy," and 28



U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising under the laws of the United States.

- 3. Defendant conducts business in the Commonwealth of Pennsylvania and therefore, personal jurisdiction is established.
 - 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

PARTIES

- 5. Plaintiff is a natural person residing in Philadelphia, Pennsylvania 19144.
- 6. Plaintiff is a "consumer" as that term is defined by 15 U.S.C. § 1692a(3).
- 7. Defendant is a national debt collection company with corporate headquarters located at 1058 Claussen Road, Suite 110, Augusta, Georgia 30907.
- 8. Defendant is a "debt collector" as that term is defined by 15 U.S.C. § 1692a(6), and contacted Plaintiff in an attempt to collect a consumer debt(s).
- 9. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

10. At all relevant times, Defendant was attempting to collect an alleged consumer debt from Plaintiff.

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The debt, a PECO Energy bill for electric service to Plaintiff's 11. household, arose out of transactions, which were primarily for personal, family, or household purposes.

- Beginning in or around November 2013, Defendant engaged in debt 12. collection activities seeking to collect alleged debt from Plaintiff.
- Specifically, on or about November 8, 2013, Defendant sent Plaintiff 13. a letter demanding payment of the alleged debt. See Exhibit A, Defendant's November 8, 2013.
- Plaintiff received Defendant's letter on a date after November 8, 14. 2013.
- In its November 8, 2013, letter, Defendant offered Plaintiff a three (3) 15. settlement options - all of which required Plaintiff to make a payment no later than December 8, 2013, less than thirty (30) days after receiving its letter.
- 16. Defendant's settlement offers, which required payment less than thirty (30) days after receiving the letter, overshadowed Plaintiff's rights to dispute the debt and/or request validation of the debt.
- Further obscuring Plaintiff's rights to dispute the debt and/or request 17. validation of the debt, Defendant placed the disclosure of Plaintiff's statutory rights on the back of the letter.
 - The reference Defendant made regarding the mandatory statutory 18.

disclosure did not alert Plaintiff that Defendant's offer required action from him in less time than he had to dispute the debt and/or request validation.

- 19. Defendant's actions were intentionally designed to mislead the Plaintiff into believing that some important opportunity to resolve the debt would be missed if he did not take advantage of it within the given time period.
- 20. Upon information and belief, immediate payment was not the goal of the letter, as Defendant offered several payment options, including an installment option, in which payments would have continued well past the 30 day period for Plaintiff to dispute the debt or seek validation.
- 21. Upon information and belief, the goal of Defendant's letter was to get Plaintiff to abandon any thought of disputing the debt or seek validation, which is typical when a debt collector and current owner of the debt lack sufficient proof to satisfy a validation request.
- 22. Defendant's actions as described herein were made with the intent to unfairly coerce payment from Plaintiff.

DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

23. In its actions to collect a disputed debt, Defendant violated the FDCPA in the following ways:

COUNT I

a. A debt collector violates § 1692f of the FDCPA by using unfair

b.

a.

or unconscionable means to collect or attempt to collect any debt.

Here, Defendant violated § 1692f of the FDCPA engaging in other unfair and unconscionable debt collection practices, including sending correspondence offering Plaintiff a settlement of the debt but giving him a time to accept less than the period to dispute the debt and/or request validation, making Plaintiff believe that he could only choose one option.

COUNT II

A debt collector violates § 1692g(a) of the FDCPA by failing to send to the consumer, within five days after its initial communication with a consumer in connection with the collection of a debt, a written notice containing: (1) the amount of the debt; (2) the name of the creditor to whom the debt is owed; (3) a statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector; (4) a statement that if the consumer notifies the debt collector in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will

obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector; and (5) a statement that, upon the consumer's written request within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

- b. A debt collector violates § 1692g(b) of the FDCPA by engaging in collection activities and communication during the 30-day period may not overshadow or be inconsistent with the disclosure of the consumer's right to dispute the debt or request the name and address of the original creditor.
- c. Here, Defendants violated §§ 1692g(a) and 1692g(b) of the FDCPA by failing to send Plaintiff written notification that effectively conveyed his rights to dispute the debt and/or request validation of the debt.

WHEREFORE, Plaintiff, ALFRED FUNDERBURK, respectfully prays for a judgment as follows:

a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);

- b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- c. All reasonable attorneys' fees, witness fees, court costs and other litigation costs incurred by Plaintiff pursuant to 15 U.S.C. § 1693k(a)(3); and
- d. Any other relief deemed appropriate by this Honorable Court.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, ALFRED FUNDERBURK, demands a jury trial in this case.

RESPECTFULLY SUBMITTED,

DATE: September 26, 2014 KIMMEL & SILVERMAN, P.C.

By:

CRAIG THOR KIMMEL Attorney ID No. 57100 Kimmel & Silverman, P.C.

30 E. Butler Pike Ambler, PA 19002

Phone: (215) 540-8888 Fax: (877) 788-2864

Email: kimmel@creditlaw.com



1068 Claussen Road, Suite 110 Augusta, GA 30907 856-849-0491 DENOMINATION 11/06/EOA3

	PECO ENERG	Y COMPANY:26637
Balanco cider 34	\$713.93	

AFFORDABLE OPTIONS TO RESOLVE THIS ACCOUNT!

Dear Alfred Funderburke,

Sometimes difficult situations arise that can cause financial hardship. We want to help you resolve your account and have developed three affordable options for you to pay off this account. Please call our toll free number 855-849-0491 to make arrangements and cease collection activity.

This letter is from a debt collector and is an attempt to collect a debt. Any information obtained will be used for that purpose.

Sincerely, Contract Callers, Inc. 855-849-0491

Please see reverse side for important information.

OFFER OPTIONS

- Pay \$356.97 no later than 12/08/13, (50% Reduction)
- Your account will be considered "Settled in Full" after we post your payment. We are not required to renew this offer.

Wentaly sever says

- Pay over 4 equal monthly installments of \$178.48.
- First payment due no later than 12/08/13.
- Your account will be considered "Paid in Full" after we post your final payment.

- Contact one of our Professional Representatives to qualify for our various payment options
- First payment due no later than 12/08/13.
- Your account will be considered "Paid in Fuil" once the account reaches a zero balance,

CONTRACT CALLERS, INC. CONTACT INFORMATION



Call Toll-Free 855-849-0491 to discuss payment arrangements. Let us prove how committed we see to working with you!



Pay by mail to: Contract Catlers, Inc. PO Box 212489 Auguste, GA 30917-2489



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Office Hours (Eastern Time) Monday through Friday - 8:00am through 8:00pm and Saturday 9:00am through 1:00pm EST

PLEASE DETACH AND RETURN BOTTOM PORTION WITH YOUR PAYMENT

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PO Box 212489 Augusta, GA 30917-2489

11/08/2013

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Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request of this office in writing within 30 days after receiving this notice this office will provide you with the name and address of the onginal creditor, if different from the current creditor.

In addition to accepting payments at our P O Box, our office offers several convenient methods for our consumers to pay their bills:

Checks by phone Credit Cards (Master Card/Visa) Western Union (code City FLAME, State GA) Money Gram (use receiver code 4994

When you provide a check as payment, you authorize us either to use the information from your check to make a one-time electronic fund transfer from your account or to process the account as a check transaction. When we use this information from your check to make an electronic fund transfer funds may be withdrawn from your account as soon as the same day you make your payment, and you will not receive your check back from your financial institution.

FEDERAL LAW PROHIBITS COLLECTION AGENCIES FROM CONTACTING YOU ABOUT YOUR DEBT IF YOU SEND A LETTER REQUESTING THAT ALL CONTACTS STOP.

ARCA/CCI21279039/310/TRAY18

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